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KG KAUAI DEVELOPMENT, LLC,  
PUKALANI GOLF CLUB, LLC,  
KG MAUI DEVELOPMENT, LLC,  
MILILANI GOLF CLUB, LLC,  
QK HOTEL, LLC, OR HOTEL, LLC,  
AND KG HOLDINGS, LLC

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD., a  
Japanese corporation,

Plaintiff,

vs.

QK HOTEL, LLC, a Hawai'i limited  
liability company; KG HOLDINGS, LLC,  
a Hawai'i limited liability company and  
FRANKLIN K. MUKAI,

Defendants,

and

FRANKLIN K. MUKAI,

CV 04-00124 ACK-BMK

CONSOLIDATED CASES

EX PARTE MOTION TO SEAL  
EXHIBITS 6, 7, 8, 10, 11 AND 12 TO  
MOTION TO DISMISS CV. NOS.  
04-00125 ACK-BMK, 04-00126  
ACK-BMK AND 04-00128 ACK-  
BMK FOR LACK OF SUBJECT  
MATTER JURISDICTION;  
DECLARATION OF ROBERT A.  
MARKS; CERTIFICATE OF  
SERVICE

Third-Party Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD., a Delaware corporation; SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (MILILANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (KAUAI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (PUKALANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation; and OCEAN RESORT HOTEL CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; and SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

QK HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Third-Party Counterclaim  
Defendants

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SPORTS SHINKO (USA) CO., LTD., a  
Delaware corporation,

Plaintiff,

vs.

PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

Defendants,

and

FRANKLIN K. MUKAI,

Third-Party Plaintiff,

vs.

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS SHINKO  
(HAWAII) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO  
(MILILANI) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO (KAUAI)  
CO., LTD, a Hawai'i corporation;  
SPORTS SHINKO (PUKALANI) CO.,  
LTD., a Hawai'i corporation; SPORTS  
SHINKO RESORT HOTEL

CV 04-00125 ACK-BMK

CORPORATION, a Hawai'i corporation;  
SPORTS SHINKO (WAIKIKI)  
CORPORATION, a Hawai'i corporation;  
and OCEAN RESORT HOTEL  
CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS SHINKO  
(HAWAII) CO., LTD., a Hawai'i  
corporation; and SPORTS SHINKO  
(PUKALANI) CO., LTD., a Hawai'i  
corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

Third-Party Counterclaim  
Defendants.

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SPORTS SHINKO (USA) CO., LTD.,  
a Delaware corporation,

Plaintiff,

vs.

CV 04-00126 ACK-BMK

KIAHUNA GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
KAUAI DEVELOPMENT, LLC, a  
Hawai'i limited liability company;  
PUKALANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
MAUI DEVELOPMENT, LLC, a  
Hawai'i limited liability company;  
MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; QK  
HOTEL, LLC, a Hawai'i limited  
liability company, OR HOTEL, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

Defendants,

and

FRANKLIN K. MUKAI

Third-Party Plaintiff,

vs.

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS  
SHINKO (HAWAII) CO., LTD., a  
Hawai'i corporation; SPORTS  
SHINKO (MILILANI) CO., LTD., a  
Hawai'i corporation; SPORTS  
SHINKO (KAUAI) CO., LTD., a  
Hawai'i corporation; SPORTS  
SHINKO (PUKALANI) CO., LTD., a  
Hawai'i corporation, SPORTS  
SHINKO RESORT HOTEL  
CORPORATION, a Hawai'i

corporation; SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation; and OCEAN RESORT HOTEL CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation and SPORTS SHINKO (KAUAI) CO., LTD., a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

KIAHUNA GOLF CLUB, LLC, a Hawaii limited liability company; KG KAUAI DEVELOPMENT, LLC, a Hawai'i limited liability company; PUKALANI GOLF CLUB, LLC, a Hawai'i limited liability company; KG MAUI DEVELOPMENT, LLC, a Hawai'i limited liability company; QK HOTEL, LLC, a Hawai'i limited liability company; OR HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Third-Party Counterclaim  
Defendants.

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SPORTS SHINKO CO., LTD., a

CV 04-00127 ACK-BMK

Japanese corporation,

Plaintiff,

vs.

OR HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Defendants,

and

FRANKLIN K. MUKAI

Third-Party Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD., a Delaware corporation; SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (MILILANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (KAUAI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO (PUKALANI) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation; and OCEAN RESORT HOTEL CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO., LTD., a Hawai'i corporation; SPORTS SHINKO RESORT HOTEL CORPORATION, a Hawai'i corporation; and SPORTS SHINKO (WAIKIKI) CORPORATION, a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

OR HOTEL, LLC, a Hawai'i limited liability company; KG HOLDINGS, LLC, a Hawai'i limited liability company; and FRANKLIN K. MUKAI,

Third-Party Counterclaim  
Defendants.

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SPORTS SHINKO (USA) CO., LTD., a  
Delaware corporation,

Plaintiff,

vs.

MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company; and FRANKLIN K.  
MUKAI,

CV 04-00128 ACK-BMK



Defendants,

and

FRANKLIN K. MUKAI,

Third-Party Plaintiff,

vs.

SPORTS SHINKO CO., LTD., a  
Japanese corporation; SPORTS SHINKO  
HAWAII) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO  
(MILILANI) CO., LTD., a Hawai'i  
corporation; SPORTS SHINKO (KAUAI)  
CO., LTD., a Hawai'i corporation;  
SPORTS SHINKO (PUKALANI) CO.,  
LTD., a Hawai'i corporation; SPORTS  
SHINKO RESORT HOTEL  
CORPORATION, a Hawai'i corporation;  
SPORTS SHINKO (WAIKIKI)  
CORPORATION, a Hawai'i corporation;  
and OCEAN RESORT HOTEL  
CORPORATION, a Hawai'i corporation,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO.,  
LTD., a Hawai'i corporation and  
SPORTS SHINKO (MILILANI) CO.,  
LTD., a Hawai'i corporation,

Third-Party Defendants /  
Counterclaimants,

vs.

MILILANI GOLF CLUB, LLC, a  
Hawai'i limited liability company; KG  
HOLDINGS, LLC, a Hawai'i limited  
liability company, and FRANKLIN K.  
MUKAI,

Third-Party Counterclaim  
Defendants.

EX PARTE MOTION TO SEAL EXHIBITS 6, 7, 8, 10, 11 AND 12 TO MOTION  
TO DISMISS CV. NOS. 04-00125 ACK-BMK, 04-00126 ACK-BMK AND  
04-00128 ACK-BMK FOR LACK OF SUBJECT MATTER JURISDICTION

Defendants KG Holdings, LLC, QK Hotel, LLC, OR Hotel, LLC, Pukalani  
Golf Club, LLC, KG Maui Development, LLC, Mililani Golf Club, LLC, Kiahuna  
Golf Club, LLC and KG Kauai Development, LLC (collectively, "KG"), by and  
through its undersigned counsel, respectfully moves this Honorable Court *ex parte*  
for an order sealing Exhibits 6, 7, 8, 10, 11 and 12 to the KG's Motion To Dismiss  
CV. Nos. 04-00125 ACK-BMK, 04-00126 ACK-BMK And 04-00128 ACK-BMK  
For Lack Of Subject Matter Jurisdiction filed contemporaneously herewith  
("Motion").

This Motion is made on the grounds that Exhibits 6, 7, 8, 10, 11 and 12 have  
been designated as confidential pursuant to the Stipulated Protective Order filed  
herein on January 25, 2005 ("SPO"). Paragraph 8 of the SPO provides as follows:

Filing under Seal. In the event that any Confidential Document or  
Confidential Information derived therefrom is included with, or the  
contents thereof are disclosed in, any documents filed with the Clerk  
of this court or any other court, including without limitation, any

pleadings, motions, briefs or deposition transcripts, such documents shall, upon prior application to and approval by the court, be filed under seal in an envelope bearing the words: “Confidential pursuant to Protective Order entered by the Court on [January 25,] 2005”, or “Confidential, Filed Under Seal Pursuant to Protective Order”, or words of similar effect, and subject to the Court’s convenience and needs, shall be kept under seal by the Clerk until further order of the Court.

This Motion is brought pursuant to the SPO and Rules 5 and 7 of the Federal Rules of Civil Procedure. This Motion is supported by the Declaration of Robert A. Marks, and the record herein.

DATED: Honolulu, Hawaii, November 16, 2006.

/s/ Robert A. Marks  
\_\_\_\_\_  
WARREN PRICE III  
ROBERT A. MARKS

Attorneys for Defendants  
KG Holdings, LLC, QK Hotel, LLC, OR  
Hotel, LLC, Pukalani Golf Club, LLC, KG  
Maui Development, LLC, Mililani Golf  
Club, LLC, Kiahuna Golf Club, LLC and  
KG Kauai Development, LLC

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD.,

Plaintiff,

vs.

QK HOTEL, LLC, et al.,

Defendants,

and

FRANKLIN K. MUKAI,

Third-Party Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD.,  
et al.,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO.,  
LTD., et al.,

Third-Party Defendants/  
Counterclaimants,

vs.

QK HOTEL, LLC, et al.,

Third-Party Counterclaim  
Defendants.

AND CONSOLIDATED CASES

CV 04-00124 ACK-BMK

CV 04-00125 ACK-BMK

CV 04-00126 ACK-BMK

CV 04-00127 ACK-BMK

CV 04-00128 ACK-BMK

CONSOLIDATED CASES

DECLARATION OF  
ROBERT A. MARKS

**DECLARATION OF ROBERT A. MARKS**

Pursuant to 28 U.S.C. § 1746, ROBERT A. MARKS states as follows:

1. I am an attorney licensed to practice law before this court.

2. I am counsel for the following parties in the captioned consolidated actions: Kiahuna Golf Club, LLC, KG Kauai Development, LLC, Pukalani Golf Club, LLC, KG Maui Development, LLC, Mililani Golf Club, LLC, QK Hotel, LLC, OR Hotel, LLC, and KG Holdings, LLC (collectively, “KG”).
3. KG submits this Motion in connection with its Motion To Dismiss CV. Nos. 04-00125 ACK-BMK, 04-00126 ACK-BMK and 04-00128 ACK-BMK For Lack Of Subject Matter Jurisdiction to be filed concurrently herewith (“Motion”). Exhibits 6, 7, 8, 10, 11 and 12 to the Motion were designated as confidential pursuant to the Stipulated Protective Order filed herein on January 25, 2005, and accordingly, cannot be filed in the public record or under seal without leave of court.
4. Each of the exhibits sought to be filed under seal contains state and/or federal tax return information, communications between a taxpayer’s representative and the taxpayer’s accountants or communications to a taxpayer from the Internal Revenue Service.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawaii, November 16, 2006.

/s/ Robert A. Marks  
ROBERT A. MARKS

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD.,

Plaintiff,

vs.

QK HOTEL, LLC, et al.,

Defendants,

and

FRANKLIN K. MUKAI,

Third-Party Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD.,  
et al.,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO.,  
LTD., et al.,

Third-Party Defendants/  
Counterclaimants,

vs.

QK HOTEL, LLC, et al.,

Third-Party Counterclaim  
Defendants.

AND CONSOLIDATED CASES

CV 04-00124 ACK-BMK

CV 04-00125 ACK-BMK

CV 04-00126 ACK-BMK

CV 04-00127 ACK-BMK

CV 04-00128 ACK-BMK

CONSOLIDATED CASES

CERTIFICATE OF SERVICE

**CERTIFICATE OF SERVICE**

I hereby certify that, on November 16, 2006 a true and correct copy of the foregoing was served electronically through CM/ECF on the following:

PAUL ALSTON, ESQ. [palston@ahfi.com](mailto:palston@ahfi.com)  
GLENN T. MELCHINGER, ESQ. [gtm@ahfi.com](mailto:gtm@ahfi.com)

Attorneys for Plaintiffs  
SPORTS SHINKO CO., LTD. and  
SPORTS SHINKO (USA) CO., LTD.  
and  
Third Party Defendants  
SPORTS SHINKO (USA) CO., LTD.  
SPORTS SHINKO (HAWAII) CO., LTD.  
SPORTS SHINKO (MILILANI) CO., LTD.  
SPORTS SHINKO (KAUAI) CO., LTD.  
SPORTS SHINKO (PUKALANI) CO., LTD.  
SPORTS SHINKO RESORT HOTEL CORPORATION  
SPORTS SHINKO (WAIKIKI) CORPORATION, and  
OCEAN RESORT HOTEL CORPORATION

WILLIAM BORDNER, ESQ. [bbordner@bmbe-law.com](mailto:bbordner@bmbe-law.com)

Attorney for Defendant  
FRANKLIN K. MUKAI

DATED: Honolulu, Hawaii, November 16, 2006.

/s/ Robert A. Marks  
WARREN PRICE III  
ROBERT A. MARKS

Attorneys for Defendants  
KG Holdings, LLC, QK Hotel, LLC, OR Hotel,  
LLC, Pukalani Golf Club, LLC, KG Maui  
Development, LLC, Mililani Golf Club, LLC,  
Kiahuna Golf Club, LLC and KG Kauai  
Development, LLC